

Notarial acts of J. Eastman from March 20 to Oct. 9, 1866, legalized. Eastman, a notary public of Poweshiek county, which were done between March 20th, 1866, and October 9th, 1866, after the expiration of his commission and before its renewal, are hereby legalized and made as valid as if they had been done while his commission was in full force.

Approved April 7, 1868.

CHAPTER 117.

RAILROADS MAY TAKE REAL ESTATE FOR DAMS AND RESERVOIRS.

APRIL 7. AN ACT to Enable Railroad Corporations to take and hold Real Estate for the Purpose of constructing and maintaining Dams and Reservoirs to hold and accumulate Water to supply Engines, and for the Purpose of laying down Pipes to supply Water for the use of Engines used in operating such Railroads.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That any railroad corporation owning or operating, or that may hereafter own or operate, any railroad within this State, may, at such points as may be deemed necessary by said corporation for water-stations, take and hold additional real estate for the purpose of erecting and constructing dams and thereby forming reservoirs to accumulate and hold water to supply the engines used in operating such railroad: *Provided,* That the dwelling-house, out-house, orchard, or garden of the proprietor of any real estate so taken shall not be overflowed or otherwise injuriously affected thereby. The commissioners who may assess the damage to the owner, as hereinafter provided, shall state in their report whether the dwelling-house, out-house, orchard, or garden of the proprietor of any real estate so taken will be overflowed, or otherwise injuriously affected, by the erection and maintaining of such dam. The land so taken shall at the option of the owner be set apart by such commissioners in a square or rectangular shape if the owner requests it, including all the overflowed land, but shall not deprive the owner of the land *to* [of] the access to and use in common with such company of the water in such stream on his own land.

R. R. corporations may take real estate for dams & reservoirs for use of road.

Proviso: Dwelling-houses, &c., not to be overflowed or injured. Commissioners to make statement of overflow or injury.

Shape of land taken.

Owner to have access.

SEC. 2. That any such railroad corporation may lay down pipes through any land adjoining the track of the railroad, and not to a greater distance than three-fourths of a mile from such track, (unless by consent of the owners of the land through which the pipes may pass beyond that distance,) and maintain and repair such pipes, and thereby conduct water for the supply of the engines of such railroad from any running stream; and such corporation shall without unnecessary delay, after laying down or repairing such pipes, cover the same so as to restore the surface of the land through which they may pass to its natural grade; and said corporation shall as soon as practicable replace any fence that it may be necessary to open in laying down or repairing such pipes; and the owner of the land through which the same may be laid shall have a right to use the land through which such pipes pass, in any manner not to interfere with such pipes: *Provided*, also, That said pipes shall not be laid to any spring, nor be used so as to injuriously withdraw the water from any farm.

Co. may lay pipes through lands adjoining railroads to running streams.

Pipes to be covered.

Owner to have right to use land.

Proviso: pipes not to go to spring, &c.

SEC. 3. That in any case under this act, where the owner of any real estate shall refuse to grant the right to construct such dam and reservoir, or to lay down and maintain such pipes, as the case may be, the damage which such owner will sustain by reason of the erecting of said dam and reservoir, or by reason of the laying down and maintaining of such pipes, shall be assessed and paid in the manner provided for assessing damages in the act entitled "An act granting to railroad companies the right of way," contained in Article 3 of Revision of 1860; and all the provisions of that act, in relation to the assessment and payment of damages and to the mode of giving notice to non-residents, and in other cases, shall be applicable to proceedings under this act, and either party shall have a right to appeal from the assessment of damages herein provided for in the manner provided in that act contained in said article 3, and with the same effect: *Provided*, That if the commissioners so assessing damages shall state in their report that the dwelling-house, out-house, orchard, or garden, of the proprietor of any real estate so taken, will be overflowed or otherwise injuriously affected by the erection and maintaining of such dam, then said dam shall not be erected until it shall have been otherwise determined on the trial of the said appeal in the district court; and the appeal above provided for shall carry with it the question whether the

Assessment of damages.

Rev., ch. 55, art. 3.

Appeal.

Proviso: where dwelling-house, &c. is injured, dam not to be built till trial in dist. court.

Question of dwelling-house, out-house, orchard, or garden of the proprietor of any real estate so taken will be thus overflowed or otherwise injuriously affected, and such question, as well as the amount of damages, shall be tried in the district court on such appeal.

Act applied to existing dams.

Proviso: not to discontinue suits for damages till comply make deposit.

Sec. 4. This act shall apply as well to dams of the kind above mentioned already in existence, and to the heightening of the same, as to those hereafter to be erected: *Provided*, That the provisions of this act shall not operate to discontinue any suit brought for damages on account of any dam until the railroad company, for whose benefit the application is made, shall deposit with the clerk sufficient money to pay all costs, including reasonable attorneys' fees incurred by the owner of the land in bringing such suit.

Taking effect. Sec. 5. This act shall take effect and be in force from and after the time it is published in the *Daily State Register* and *Iowa Homestead*, newspapers published at Des Moines.

Approved April 7, 1868.

I hereby certify that the foregoing act was published in the *Daily State Register* April 21, 1868, and in *The Iowa Homestead* May 6 1868.

ED WRIGHT, *Secretary of State*.

CHAPTER 118.

IN RELATION TO FEES OF CLERKS OF THE DISTRICT COURT.

APRIL 7. AN ACT to Amend Section 430 of the Revision of 1860.

Sec. 430, Rev. 1860, amended. SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That section 430 of the Revision of 1860 be and the same is hereby amended by inserting, in the fifth line after the word Appeal, the word "and" instead of the word "or."

Taking effect. SEC. 2. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the *Iowa State Register* and *National Platform*, newspapers published in Des Moines, Iowa.

Approved April 7, 1868.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 22, 1868, and in *The National Platform* May 1, 1868.

ED WRIGHT, *Secretary of State*.